IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.52 of 1998

Between:

1 Shaik Nazeer Ahmed (Died), Son of Mohiuddin,
R/o.No. 5/70, Mosque Street, Gudur, Nellore District
2 Shaik Khaja Mohiddin, Son of late Shaik Nazeer Ahmed,
R/o.5/66m East Guduru village, Gudur Mandal, Nellore District.

(Petitioner No.2 is brought on record as LR of the deceased petitioner No.1 as per court order dated 16.10.2001 in WPMP NO.22566 of 2001)

..... PETITIONERS

AND

1 The Principal Secretary to Government of Andhra Pradesh, Industries

and Commerce Department, Secretariat, Hyderabad.
2 The Director of Mines & Geology,
8th Floor, B.R.K.R. Buildings, Tankbund Road,
Hyderabad-29
3 The Dy. Director of Mines & Geology,
Guntur Regions, Guntur 522 007
4 The Asst. Director of Mines & Geology,
Nellroe -524 001
5 Sri Srinivasa Minerals, Rep. by its Partner Aruru Srinivasachari,

S/o.A.V.Brahmaichar, R/o.Raja Street, Gudur, Nellore dist.

(Respondent No.5 is impleaded as per the court order dated 19.07.2001 in WPMP NO.17516 of 2001)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the

circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the said inaction on the part of the 4th respondent in not conducting resurvey of the prospecting licence application dt. 25/01/92 of the petitioner over an extent of 49.55 Acres in Sy.No. 218 of Gulimcherla village, Sydapuram Mandal, Nellore District. as illegal, arbitrary and violative of Article 14 of the Constitution of India and consequently direct the 4th respondent to conduct resurvey and demarcate the area as originally applied for within a fixed period of time failing which the petitioner would be put to irreparable loss and hardship.

Counsel for the Petitioner: MR.SRINIVAS.P

Counsel for the Respondent Nos.1 to 4: GP FOR INDUSTRIES & COMMERCE

Counsel for the Respondent No.5: Smt. N. Shoba

The Court made the following:

ORDER:

Questioning the inaction on the part of the 4th respondent in not conducting resurvey of the applied area for issuance of prospecting licence to the petitioner for extraction of major minerals in an extent of Ac. 49.55 in Survey No.218 of Gulimcherla village, Sydapuram Mandal, Nellore District, the present writ petition is filed.

When the matter came up for hearing, it is brought to the notice of this Court by the learned Government Pleader for Industries and Commerce that during the pendency of the writ petition a final survey was conducted on 05.08.1998 and the said survey report along with sketch plan was also submitted before this Court by way of additional counter affidavit.

On the other hand, learned counsel for the petitioner while submitting that in fact he has no instructions from his client in the matter in spite of writing letters, requested that a direction may be given to conduct survey once again.

A perusal of the survey report of the 4th respondent dated 23.09.1998, filed along with additional counter affidavit, reveals that
re-survey of the area applied for issuance of prospecting licence by the petitioner was conducted on 05.08.1998. Even though the said survey report, by way of additional counter affidavit, was filed before this Court in the month of September, 2003, the petitioner did not file any objections to the same. Once the survey was

conducted pursuant to the application of the petitioner and a report filed, and the petitioner having chosen not to file any objections to the said survey report, it can safely be presumed that the petitioner has accepted the said survey report and he has no objections to the same. Therefore, there is no reason to conduct another survey, and as such, the contention of the petitioner that a direction be given to the respondents to conduct resurvey, cannot be accepted.

Under the circumstances, I see no merits in the writ petition and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 15.03.2005

Nsr

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Principal Secretary to Government of Andhra Pradesh, Industries

and Commerce Department, Secretariat, Hyderabad.
2 The Director of Mines & Geology,
8th Floor, B.R.K.R. Buildings, Tankbund Road,
Hyderabad-29
3 The Dy. Director of Mines & Geology,
Guntur Regions, Guntur 522 007
4 The Asst. Director of Mines & Geology,
Nellroe -524 001
5 Two CCs to GP for Industries and Commerce, High Court Buildings,

Hyderabad (OUT)

6 Two CD copies

7 1 CC to MR.SRINIVAS

*Form-NIC-OGS/WP{**PRASAD**}*